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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/642,660	08/22/2000	Jonathan Schneck	01107.00042	9271

7590 12/11/2001

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EXAMINER

BANSAL, GEETHA P

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 12/11/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/642660

Applicant(s)

Schneek et al

Examiner

09/642,660

Group Art Unit

1642

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 0 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
(30 days)

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 8/22/00
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-50 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1-50 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☒ Other FAX Transmittal form

Office Action Summary

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DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-16, drawn to a protein product and compositions thereof, classified in class 530, subclass 387.3.
 - II. Claims 17-27, drawn to nucleic acids encoding a fusion protein and host cells thereof, classified in class 536, subclass 25.1 and class 435, subclass 69.7.
 - III. Claims 28-32, drawn to a composition comprising a cell, classified in class 424, subclass 93.5.
 - IV. Claims 33, drawn to a method of treating allergy, classified in class 424, subclass 130.1.
 - V. Claims 34, drawn to a method of treating a transplant patient, classified in class 424, subclass 130.1.
 - VI. Claims 35, drawn to a method of treating autoimmune disease, classified in class 424, subclass 130.1.
 - VII. Claims 36, drawn to a method of treating cancer, classified in class 424, subclass 130.
 - VIII. Claims 37, drawn to a method of treating infectious disease, classified in class 424, subclass 130.1.
 - IX. Claims 38-44, drawn to a method of labelling antigen specific T cells, classified in class 435, subclass 503.
 - X. Claims 45-47, drawn to a method of activating antigen specific T cells, classified in class 424, subclass 130.1.
 - XI. Claims 48-50, drawn to a method of labelling specific peptide MHC complex, classified in class 424, subclass 130.

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2. The inventions are distinct, each from the other because of the following reasons:
Inventions I-XI are unrelated to each other. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together, or they have different modes of operation, or they have different functions, or they have different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are drawn to different methods with different method steps. Each of the methods are patentably distinct since they have different modes of operation and have different functions and effects and measured by different endpoints. Similarly the products of Groups I-III are drawn to different structurally and chemically distinct products, that have different functions. While it appears that they are related to each other, in fact the products are distinct and independent of each other. Similarly, the product group I can be used in a number of different distinct and independent methods as shown above.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, their recognized divergent subject matter, and the search required for the different Groups are different, restriction for examination purposes as indicated is proper.
4. Due to the numerous groups and the complexity of the groupings this written restriction is being mailed. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).
5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any

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amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

6. A dedicated Fax machine is in place to receive your responses. The Fax number is 703-308-4315. A Fax cover sheet is attached to this Office Action for your convenience. Please limit the use of this dedicated Fax number to responses to Written Restrictions.

7. Papers related to this application may be submitted to Group 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 308-4242 or (703) 305-3014.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geetha P. Bansal whose telephone number is (703) 305-3955. The examiner can normally be reached on Mondays to Thursdays from 7:00am to 4:30pm and alternate Fridays from 7:00am to 3:30pm. A message may be left on the examiner's voice mail service.

9. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Anthony Caputa, can be reached on (703) 308-3995.

10. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

November 30, 2001.



**GEETHA P. BANSAL
PRIMARY EXAMINER**